

Fiscal Estimate - 2009 Session

☒ Original ☐ Updated ☐ Corrected ☐ Supplemental

LRB Number 09-1370/1		Introduction Number AB-0130	
Description Costs of administering tests for intoxication			
Fiscal Effect			
State:			
<input type="checkbox"/> No State Fiscal Effect			
<input checked="" type="checkbox"/> Indeterminate			
<input type="checkbox"/> Increase Existing Appropriations		<input type="checkbox"/> Increase Existing Revenues	
<input type="checkbox"/> Decrease Existing Appropriations		<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriations		<input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget	
		<input type="checkbox"/> Yes <input type="checkbox"/> No	
		<input type="checkbox"/> Decrease Costs	
Local:			
<input type="checkbox"/> No Local Government Costs			
<input checked="" type="checkbox"/> Indeterminate			
1. <input type="checkbox"/> Increase Costs		3. <input type="checkbox"/> Increase Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
2. <input type="checkbox"/> Decrease Costs		4. <input type="checkbox"/> Decrease Revenue	
<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
5. Types of Local Government Units Affected			
<input type="checkbox"/> Towns		<input type="checkbox"/> Village <input type="checkbox"/> Cities	
<input type="checkbox"/> Counties		<input type="checkbox"/> Others	
<input type="checkbox"/> School Districts		<input type="checkbox"/> WTCS Districts	
Fund Sources Affected		Affected Ch. 20 Appropriations	
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Agency/Prepared By		Authorized Signature	
DA/ Phil Werner (608) 267-2700		Tom Herman (608) 266-0239	
		Date	
		3/10/2009	

Fiscal Estimate Narratives

DA 3/10/2009

LRB Number	09-1370/1	Introduction Number	AB-0130	Estimate Type	Original
Description					
Costs of administering tests for intoxication					

Assumptions Used in Arriving at Fiscal Estimate

It is uncertain what fiscal impact enactment of this bill would have on DA Offices.

Long-Range Fiscal Implications

There is uncertainty regarding what long-term fiscal impact enactment of this bill would have on DA Offices.

Fiscal Estimate - 2009 Session

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LRB Number 09-1370/1	Introduction Number AB-0130
Description Costs of administering tests for intoxication	
Fiscal Effect State: <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input checked="" type="checkbox"/> No State Fiscal Effect <input type="checkbox"/> Indeterminate <div style="margin-left: 20px;"> <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 33%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <div style="margin-left: 40px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </div> <input type="checkbox"/> Decrease Costs </div> </div> Local: <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> 1. <input type="checkbox"/> Increase Costs <div style="margin-left: 20px;"> <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> 2. <input type="checkbox"/> Decrease Costs <div style="margin-left: 20px;"> <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> </div> <div style="width: 33%;"> 3. <input type="checkbox"/> Increase Revenue <div style="margin-left: 20px;"> <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> 4. <input type="checkbox"/> Decrease Revenue <div style="margin-left: 20px;"> <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> </div> <div style="width: 33%;"> 5. Types of Local Government Units Affected <div style="display: flex; flex-wrap: wrap;"> <div style="width: 33%;"> <input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts </div> <div style="width: 33%;"> <input type="checkbox"/> Cities </div> </div> </div> </div>	

Fiscal Estimate Narratives

DOJ 5/1/2009

LRB Number	09-1370/1	Introduction Number	AB-0130	Estimate Type	Original
Description					
Costs of administering tests for intoxication					

Assumptions Used in Arriving at Fiscal Estimate

The Department of Justice does not anticipate a fiscal impact due to the enactment of 2009 AB 130.

Long-Range Fiscal Implications

Fiscal Estimate - 2009 Session

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LRB Number 09-1370/1	Introduction Number AB-0130
Description Costs of administering tests for intoxication	
Fiscal Effect State: <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No State Fiscal Effect <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Increase Existing Appropriations <input type="checkbox"/> Decrease Existing Appropriations <input type="checkbox"/> Create New Appropriations </div> <div style="width: 30%;"> <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Revenues </div> <div style="width: 35%;"> <input type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Decrease Costs </div> </div> Local: <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> No Local Government Costs <input checked="" type="checkbox"/> Indeterminate 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 30%;"> 3. <input type="checkbox"/> Increase Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenue <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory </div> <div style="width: 35%;"> 5. Types of Local Government Units Affected <div style="display: flex; justify-content: space-between;"> <div style="width: 30%;"> <input type="checkbox"/> Towns <input type="checkbox"/> Counties <input type="checkbox"/> School Districts </div> <div style="width: 30%;"> <input type="checkbox"/> Village <input type="checkbox"/> Others <input type="checkbox"/> WTCS Districts </div> <div style="width: 30%;"> <input type="checkbox"/> Cities </div> </div> </div> </div>	
<div style="display: flex; justify-content: space-between;"> <div> Fund Sources Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEGS </div> <div> Affected Ch. 20 Appropriations </div> </div>	
Agency/Prepared By DOT/ Laura Andreasson (608) 267-5136	Authorized Signature Julie Johnson (608) 267-3703
Date 4/24/2009	

Fiscal Estimate Narratives

DOT 4/24/2009

LRB Number	09-1370/1	Introduction Number	AB-0130	Estimate Type	Original
Description					
Costs of administering tests for intoxication					

Assumptions Used in Arriving at Fiscal Estimate

This bill contains no provision for transferring costs paid by an offender to the law enforcement agency that incurred the costs. As such, there is no mechanism for a law enforcement agency to receive any revenues under the bill.

This analysis assumes that court clerks will somehow forward revenues to the appropriate law enforcement agency.

Under current law a law enforcement officer may request a person to provide a sample of breath, blood, or urine for analysis if the person is arrested for operating while intoxicated a vehicle, an all-terrain vehicle, a boat, or a snowmobile or for injury or homicide by intoxicated use of a vehicle. 2009 AB-130 endeavors to assess against the offender any costs associated with acquiring a blood sample and administering a blood test or analysis that were charged to or paid by a law enforcement agency.

REVENUES. The Wisconsin Division of State Patrol (DSP) spent \$60,425 in FY 2008 on 909 blood draws, or approximately \$66.50 each. The charge for a blood draw varies widely depending on the facility that is drawing the blood and the circumstances around which the blood is drawn. The DSP has been billed in the range of \$15 to \$250 for blood draws.

The Wisconsin State Lab of Hygiene (WSLH) performs 60% of the total chemical tests – they do not charge law enforcement agencies for alcohol and drug testing services related to OWI arrests. Private labs and local health labs that perform OWI testing do charge, and the WSLH charges for testing if police agencies insist on drug testing even if the BAC is over 0.10 (except for homicide OWI, GBH cases and similar serious offenses). Outside of homicide OWI and GBH cases, the State Patrol does not have a practice of insisting on drug testing when the BAC is over 0.10.

Assuming that the DSP requests 909 blood draws and of those approximately 95% result in a BAC over 0.08 or with a detectable prohibited drug, 864 persons would be charged with having prohibited alcohol concentration (PAC). Assuming a 92% conviction rate, 795 persons would be required to pay the costs incurred by the arresting law enforcement agency (note: our read of the bill is that the offender will pay the court clerk, not the LE agency directly). Assuming only 67% of convicted offenders will actually pay their court ordered forfeitures, approximately 533 people would reimburse the arresting LE agency for the blood draws. Assuming an average cost of \$67.00 per blood draw, DSP might recover \$35,711.00 per year.

COSTS. The bill requires the offender to pay “for the withdrawal, testing, or analysis of the person's blood”, which requires an individualized billing for each offender. State Patrol currently has no method of assigning bills for individual blood draws to the responsible court, nor a method of matching any payment received from a court to that bill if that money was even actually paid by the convicted person. This individualized billing would probably prove to be very problematic for most LE agencies. As discussed above under revenues, it is anticipated that of 100% offenders billed, approximately 67% will pay or conversely 262 will not pay. Therefore, if total costs associated with billing exceed \$39.29 per offender, the billing costs will exceed revenues (note: estimated revenues of \$35,711.00, divided among billing costs for 909 tests). The Department could mitigate this by billing only those charges that exceed the expected average billing costs.

In addition, as discussed above, of the estimated 795 offenders ordered to pay the costs, the Department anticipates 262 will not pay. These 262 drivers will face contempt of court charges or driver license suspensions for failing to pay costs ordered by the court.

The net fiscal impact is indeterminate.

Long-Range Fiscal Implications

Indeterminate

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<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory		<input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	
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<input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEGS			
Agency/Prepared By		Authorized Signature	
SPD/ Mike Tobin (608) 266-8259		Krista Ginger (608) 264-8572	
		Date	
		3/13/2009	

Fiscal Estimate Narratives

SPD 3/13/2009

LRB Number 09-1370/1	Introduction Number AB-0130	Estimate Type Original
Description Costs of administering tests for intoxication		

Assumptions Used in Arriving at Fiscal Estimate

The State Public Defender (SPD) is statutorily authorized and required to appoint attorneys to represent indigent defendants in criminal proceedings. The SPD plays a major role in ensuring that the Wisconsin justice system complies with the right to counsel provided by both the state and federal constitutions. Any legislation has the potential to increase SPD costs if it creates a new criminal offense, expands the definition of an existing criminal offense, or increases the penalties for an existing offense.

This bill does not provide for a new criminal offense, expand the definition of a criminal offense, or increase criminal penalties. The bill makes persons convicted of operating under the influence of alcohol or controlled substances (OWI) responsible for the costs of blood tests taken as part of the investigation. This responsibility may be limited to situations in which the person consented to administration of a blood test under the implied consent law; however, prosecutors may also seek to impose these costs in cases in which a forcible blood draw occurs.

The bill could increase the SPD workload in two ways. First, the bill requires law enforcement to advise the OWI suspect that he or she may be ordered to repay the costs of the blood test. This notification may result in more suspects refusing to consent to the blood test, which in turn may lead to more OWI trials. The additional trials could occur because the absence of a blood test prevents the prosecution from proving the blood alcohol level and, in some cases, may make it difficult for the prosecution to prove that the suspect was impaired.

Second, in cases in which the costs of the test are imposed, SPD clients will often be unable to pay these costs. SPD clients must meet strict financial guidelines before they are eligible for SPD appointment of counsel. Although local practices differ, some counties may utilize contempt-of-court proceedings to sanction persons for failure to pay court-ordered obligations. If the sanctions include incarceration, the person may again be eligible for SPD representation in the contempt proceeding.

The SPD has no data to predict the number of additional trials or the additional contempt proceedings that may result if this bill is enacted.

Counties are also subject to increased costs when a new crime is created. There are some defendants who, despite exceeding the SPD's statutory financial guidelines, are constitutionally eligible for appointment of counsel because it would be a substantial hardship for them to retain an attorney. The court is required to appoint counsel at county expense for these defendants. Thus, the counties may experience increased costs attributable to additional OWI trials and contempt proceedings. The counties could also incur additional costs associated with incarceration of defendants, both pending trial and after sentencing in OWI cases and after a finding of contempt for persons who fail to pay the court-ordered costs.

Long-Range Fiscal Implications